

# **LOCAL RULES OF PRACTICE FOR THE LAGRANGE SUPERIOR AND CIRCUIT COURTS**

**EFFECTIVE JANUARY 1, 2006**

Effective January 1, 2006 the following local rules are hereby adopted to govern proceedings in the LaGrange Superior and Circuit Courts. Any prior rules or general orders are repealed effective January 1, 2006.

## **Local Rules Relating to the Indiana Rules of Trial Procedure**

### **LR44-TR 00-1- Scope of Rules**

Except as otherwise provided, these rules govern the procedure and practice in all cases, including criminal, civil, and juvenile, filed or pending in the LaGrange Superior and Circuit Courts.

### **LR44-TR 3.1-2- Withdrawal of Appearance by Counsel**

- (A) Written motion and compliance with T.R. 3.1. Permission to withdraw an appearance by counsel shall be requested by written motion. Permission to withdraw shall be given only after the petitioning attorney has complied with the requirements of T.R. 3.1 (E), including a certification of the last known address and telephone number of the party, subject to the confidentiality requirements of T.R. 3.1.
- (B) Motions filed prior to the appearance of other counsel: Permission to withdraw shall be given only after the petitioning attorney has given his/her client at least 10 days written notice of the intent to withdraw. A copy of the written notice shall be attached to the petition to withdraw. The written notice to the client shall explain the possible effects of failure to secure new counsel and shall set forth any hearing or trial dates and any pleading, discovery or other pre-trial deadlines.
- (C) Motions filed subsequent to the appearance of other counsel: Motions to withdraw an appearance filed subsequent to the proper appearance of other counsel shall constitute a waiver of the requirements of paragraph (B) of this rule.
- (D) Criminal cases; withdrawal due to defendant's failure to fulfill an obligation with respect to counsel's fee: The requirements of paragraphs (A), (B) and (C) of this local rule are in addition to the requirements and provisions of I.C. 35-36-8-2 in criminal cases. Absent exceptional circumstances, no attorney in a criminal case should expect permission to withdraw the attorney's appearance based on his or her client's failure to fulfill an obligation with respect to the attorney's fee unless the motion to withdraw is filed at least 90 days prior to any second or subsequent trial setting.

**proposed orders.**

- (A) Service at mail slot in offices of the Clerk: Any attorney choosing to use the mail slots made available in the offices of the Clerk shall be considered to have designated that attorney's mail slot as a suitable place for delivery and service of pleadings pursuant to T.R. 5(B) (d).
- (B) Submission of proposed orders: All motions, petitions, and requests for action by the Court shall be accompanied by an original proposed order, sufficient copies for each party and person required to receive notice, and an extra copy for the Court.

**LR44-TR 53.5-4- Continuances**

- (C) Written notices: A Motion for Continuance, unless made on record during the hearing of the cause or otherwise specifically authorized by the Court, shall be in writing and signed. Such motion shall comply in all respects with T.R.53.5 of the Indiana rules of Trial Procedure.
- (D) Scheduling conflicts: A Motion for Continuance based on a scheduling conflict with another cause shall specify the Court, the case name, the cause number, the date the hearings or trials in both cases was set, and the type of conflicting hearing or trial.
- (E) Duty to confer: Before requesting a continuance, the moving party shall confer with counsel for all other parties and with any parties appearing pro se, to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

**LR44-TR 69-5- Procedure for Proceeding Supplemental**

Unless the participation of the Judge or Magistrate in the hearing is specifically requested by the judgment holder or judgment debtor, the hearing on a Proceeding Supplemental will be conducted informally by the parties, without the presence of the Judge or Magistrate. Proceeding Supplemental hearing with the Judge will be conducted in the courtroom, but unless record is requested by any party, the Proceeding Supplemental hearing will not be on record. The hearings will be scheduled by the Court. Counsel shall inform court staff of the result of the Proceeding Supplemental.

**LR44-TR 00-6- Termination of Counsel's Representation in Dissolution of Marriage Actions**

- (A) Unless otherwise indicated by counsel, upon the entry of a final decree of dissolution of marriage, legal separation or paternity, or and order of permanent modification of any custody, visitation and/or child support order, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:
  - 1. An order of withdrawal granted in accordance with the Local Rules of Practice of the LaGrange Superior and Circuit Courts; or

2. The expiration of time within which an appeal of the Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedures and/or the Indiana Rules of Appellate Procedure; or
  3. The conclusion of any appeal of the Order commenced pursuant to Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.
- (B) Counsel for initiating and responding parties shall be required to file a new appearance in any post dissolution action.
- (C) The service of any post dissolution pleadings upon any party not represented by counsel pursuant to this local rule shall be made upon that person pursuant to the Indiana Rules of Trial Procedure.
- (D) Any copy served upon original counsel will be deemed to be a matter of professional courtesy only.

#### **LR44-TR 00-7- Bond Schedule and Conditions of Posting Bond in Criminal Cases**

- (A) Bond schedule: Unless otherwise ordered by the Court, individuals arrested and taken into custody will be allowed to post bond prior to their initial hearing in accordance with the attached bond schedule and subject to the conditions and time frames set forth in the schedule.
- (B) No contact and no violent contact as a condition of bond on crimes of violence: Unless otherwise ordered by the Court, it shall be a condition of pretrial release and bond for any individual arrested for a felony offense involving either violence against an individual or a threat of violence against an individual, including but not limited to domestic violence, that the person bonding be prohibited from having any contact whatsoever, directly or indirectly, with the alleged victim of the crime and that the person bonding be prohibited from possessing any firearms or deadly weapons.
- (C) Time for posting bond: Unless otherwise ordered by the Court, or reasonably required by the LaGrange County Sheriff, individuals shall be entitled to post bond as soon as practical following arrest and processing except:
1. Individuals who are under the influence of alcohol, drugs or controlled substances. In accordance with the State statutes and the policy of the LaGrange County Sheriff, any individual reasonably believed to be under any influence of alcohol, drugs or controlled substances when arrested may be detained without bond until he or she is no longer under the influence.
  2. Family Violence:  
Anyone arrested for an offense involving family violence (as defined in I.C. 34-6-2-34.5 to include attempting, threatening or causing physical harm to another family or household member, placing a family or household member in fear of physical harm, or causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress) shall not be allowed to post bond until the earlier of his/her initial hearing or 24 hours after arrest. The Court finds this “cooling off” period is needed because of the unique nature of family

violence, which often involves high emotions between individuals who live in close physical proximity.

### **Bond Schedule**

The following is the Standard Bond Schedule for criminal defendants. It is understood that the amounts shown are amounts for the grade of offense indicated in those instances where arrest occurs without a warrant, or where no bond is endorsed on the warrant. The judge may, in any given case, fix a higher or lower bond when issuing a warrant or at a probable cause or initial hearing.

<u>Grade of Offense</u>	<u>Amount of Bond</u>
Murder	None
A Felony and all cases involving allegations of child molest and crimes of violence, regardless of the grade of offense.	Set upon Arrest
B Felony	\$20,000.00
C Felony	\$10,000.00
D Felony	\$ 3,500.00
A Misdemeanor	\$ 2,000.00
B Misdemeanor	\$ 1,500.00
C Misdemeanor	\$ 1,000.00

#### D Felony Theft (I.C. 35-43-4-1) in Circuit Court.

	<u>Check &lt; \$500.00</u>	<u>Check &gt; \$500.00</u>
<u>Defendant resides in Indiana or contiguous State</u>	<u>Bail in Amount of Check plus \$300.00</u> <b><u>(Cash Only)</u></b>	<u>Bail in Amount of Check Plus \$300.00. Maximum of \$2,000.00.</u> <b><u>(Cash Only)</u></b>
<u>Defendant does not reside in Indiana or contiguous State</u>	<u>Bail in Amount of Check plus \$500.00</u> <b><u>(Cash Only)</u></b>	<u>Bail in Amount of Check plus \$1,000.00. Maximum of \$5,000.00</u> <b><u>(Cash Only)</u></b>

## **LR44-TR 00-8- Dress and Conduct**

- (A) Lawyers and litigants shall be appropriately attired during all court appearances.
- (B) Lawyers, litigants, and spectators shall at all times speak and behave in such a manner as to respect the dignity and authority of the Courts, Judges, and all judicial personnel.
- (C) No person shall bring food or beverage into any courtroom without the prior approval of the judge of that court.
- (D) All cell phones, pagers and any other personal electronic devices shall be turned off during all court proceedings.

## **LR44-TR 00-9- Case Assignment**

- A. All cases arising under Indiana Code Title 9, or in the instance of cases containing multiple counts, where any of the counts arises under the Indiana Code Title 9, shall be filed in the LaGrange Superior Court.
- B. All cases arising under Indiana Code 35-46-1-5 shall be filed in the LaGrange Circuit Court.
- C. All other criminal cases shall be filed first with the Clerk of the Court. The Clerk shall docket cases with each court by using a system of “lot” or random selection while ensuring that an equal division of the felony and misdemeanor cases exist between the Courts.
- D. The Judges of the LaGrange Circuit and Superior Court shall meet during the months of July and January, of each year to review the caseloads of the Courts. They shall, at those meetings, make any transfers of cases which they deem necessary to provide for the more expeditious handling of cases in LaGrange County and to help to alleviate any disparity in the Courts’ caseload.

Further, the Judges shall meet to discuss caseloads and make transfers at such other times as either Judge may deem necessary.

## **LR44-TR 79-10- District Caseload Distribution**

### **A. DEFINITIONS**

“Over-utilized counties”-Counties in which, according to the most recent Weighted Caseload Measure (WCM), the judicial officers are being utilized at greater than the statewide average.

“Under-utilized counties”-Counties in which, according to the most recent WMC, the judicial officers are being utilized at more that twenty-five (25) percentage points below the statewide average.

“Other counties”-Counties in which, according to the most recent WMC, the judicial officers are being utilized at the statewide average, or within twenty-five (25) percentage points below the statewide average.

## **B. RULE**

1. In all cases in which a special judge is required under Trial Rule 76, Trial Rule 79 (H) and the Local Rules adopted hereunder, shall be the exclusive method for selection of special judges.
2. Special Judges in the over-utilized counties will be selected from a list of judicial officers in the under-utilized counties only. In order to fairly and evenly distribute these assignments, and taking into account geographic considerations, based on the 1998 WCM, appointment of special judges will be as follows:
  - a. In Allen County, from a list of the nine (9) judicial officers in Adams, LaGrange, Steuben and Wells counties;
  - b. In DeKalb County, from a list of the five (5) judicial officers in LaGrange and Steuben counties;
  - c. In Huntington County, from a list of the four (4) judicial officers in Adams and Wells counties.
3. Special judges in the under-utilized counties will be selected from a list of judicial officers in the under-utilized counties only. In order to fairly and evenly distribute these assignments, and taking into account geographic considerations, based on the 1998 WMC, appointment of special judges will be as follows:
  - a. In Adams County, from a list of the other judicial officer in Adams County and the two (2) judicial officers in Wells County;
  - b. In LaGrange County, from a list of the other judicial officer in LaGrange County, and the three (3) judicial officers in Steuben County;
  - c. In Steuben County, from a list of the other judicial officers in Steuben County and the two (2) judicial officers in LaGrange County;
  - d. In Wells County, from a list of the other judicial officer in Wells County and the two (2) judicial officers in Adams County.
4. Special Judges in other counties will be selected from a list of judicial officers from the other counties similarly situated. In order to fairly and evenly distribute these assignments and taking into account geographic considerations, based on the 1998 WCM, appointments of special judges will be as follows:
  - a. In Noble County, from a list of other judicial officers in Noble County and the two (2) judicial officers in Whitley County;
  - b. In Whitley County, from a list of the other judicial officer in Whitley County and the three (3) judicial officers in Noble County.
5. The method of selection from the list of special judges shall be that each judge maintain a list of special judges available to his or her court, and, going from top to bottom, select the special judge in sequence until each judge on the list has been selected once, before any one judge is selected twice, et cetera. This list shall remain confidential to the judge and designated staff.

6. The special judge selected hereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).
7. By requesting a special judge, the parties specifically waive selection of a special judge under Trial Rule 79(D), Trial Rule 79(E) and Trial Rule 79(F), and they specifically waive any objections to the transfer of the proceeding under Trial Rule 79(M), should such transfer be ordered by the Special Judge.
8. Each special judge receiving a case hereunder shall keep track of the number, type and resolution of the cases to quantify the additional judicial work and report such to the Division of State Court Administration quarterly.
9. Each judge sending a case hereunder shall keep track of the number and types of cases sent and report such to the Division of State Court Administration quarterly.
10. This rule applies to only civil cases, and does not apply to selection of a special judge in criminal or juvenile cases.
11. The judges in District 3 shall meet by May 1 of each year to review the WCM from the previous year and shall meet in September of each year to review the impact of this rule. No later than October 1 of each year the judges of District 3 shall adopt a rule for the succeeding year.
12. All previous local rules adopted regarding the selection of special judges are repealed to the extent that they are inconsistent with this rule.

#### **LR44-AR 15-11- Court Reporters**

Court reporter services shall be governed by the following rules:

**A. Definitions.** The following definitions shall apply under this local rule:

1. **A Court Reporter** is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
2. **Equipment** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. **Work Space** means that portions of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. **Page** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
5. **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

6. **Regular hours worked** means those hours which the court is regularly scheduled to work during any given week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
7. **Gap hours worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
8. **Overtime hours worked** means those hours worked in excess of forty (40) hours per work week.
9. **Work week** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. **Court** means the particular court of which the court reporter performs services. Court may also mean all of the courts in LaGrange County.
11. **County indigent transcript** means a transcript that is paid for from county funds and is for the use of behalf of a litigant who has been declared indigent by a court.
12. **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
13. **Private transcript** means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

### **Salaries and Per Page Fees.**

1. Court Reporters shall be paid an annual salary for time spent working under the control, directions and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.
2. The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
3. The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00.
4. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.00.
5. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.



## **Private Practice.**

1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
  - a. The reasonable market rate for the use of the equipment, work space and supplies;
  - b. The method by which records are to be kept for the use of equipment, work space and supplies; and
  - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

## **Local Rule Relating to Miscellaneous Administrative Procedures**

### **LR44-AR 00-12- Removal of files**

No Court files may be removed from the Courthouse by any attorney or employee or agent of any attorney. The files may be signed for and examined in the Courthouse, or in the library of the Circuit Court, after having duly been authorized through the offices of the Clerk or the Courts.

### **LR44-FL 00-1- Local Rules Relating to Dissolution of Marriage**

1. **There shall be filed in each dissolution of marriage preceding a Statement of Assets and Liabilities which shall be on forms substantially similar to the attached forms.**
2. **In the event that the parties cannot agree on assets, values, debts and/or the proposed distribution, they shall note on the statement the areas of disagreement and each party's position.**
3. **The statement shall be filed at the earlier of the final pre-trial conference or fourteen (14) days before the final hearing.**
4. **Statements of assets and liabilities shall not be required in those cases where the parties have executed a property settlement agreement prior to the deadlines fixed in paragraph C, nor in pro-se dissolution cases where the parties have no children and have made a division of their assets.**

[illegible]

## Liabilities of the Parties

[illegible]

## Summary

Total Value of Property:

Husband: \_\_\_\_\_

Wife: \_\_\_\_\_

Total Debts:

Husband: \_\_\_\_\_

Wife: \_\_\_\_\_

Net Value:

Husband: \_\_\_\_\_

Wife: \_\_\_\_\_

Proposed Equalization Judgment:

Husband to Wife: \_\_\_\_\_

Wife to Husband: \_\_\_\_\_

SIGNATURE(S)

\_\_\_\_\_  
PETITIONER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
DATE

SO ORDERED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
George E. Brown  
Judge  
LaGrange Superior Court

\_\_\_\_\_  
J. Scott VanDerbeck  
Judge  
LaGrange Circuit Court